IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9022 OF 2005

Mohamad Husain Abdul Rahim Kazi.. ....Petitioner.

Versus

The Sarpanch, Gram Panchayat,
Pawas,Dist.Ratnagiri & Ors... ... Respondents.

Mr. H. R. Sharma for the Petitioner.

Mr. K. K. Jadhav for Respondent No.4.

CORAM : V.G. PALSHIKAR, and
V.R.KINGAONKAR, JJ.

DATED : 3RD APRIL, 2006.

P.C.:

By this petition, the petitioner makes the following prayers :

(a) The Honourable Court be pleased to issue a writ of ‘Mandamus’ or any other writ as the Honourable Court may deem fit and proper as per nature and circumstances of this case, and the respondents be directed to demolish the illegal structure of new building, constructed in place of house No.528 at Village - Pawas, Dist. Ratnagiri, Maharashtra.

(b) Pending the hearing and final disposal of this writ petition, the Honourable Court be pleased to restrain to the respondent by way of injunction order for further construction of said building, in place of house No.528 at Village - Pawas, Dist. Ratnagiri, Maharashtra.

(c) Ad-interim and interim in term of prayer clause (a) and (b) be granted for.

(d) The cost of the writ petition may be provided for.

(e) Such other and further reliefs, as the nature and circumstances of the case may require, may be granted.

2. The proper remedy in this type of claim is a civil suit for declaration of easementary rights. Such suit in fact was filed by the Petitioner and has come to a logical end by rejection of his second appeal. In such circumstances, entertaining this petition is not permissible. Hence petition is dismissed.

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